

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

RICHARD DEAN SMITH,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-05-632-T
)	
DON STEWARD, Warden,)	
)	
Respondent.)	

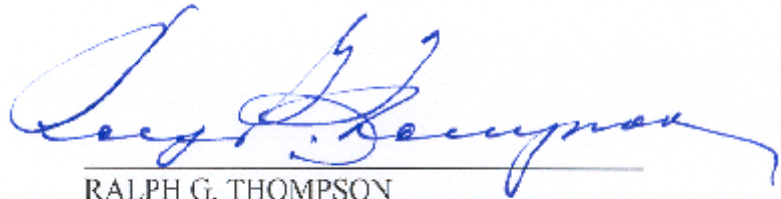
ORDER

On June 3, 2005, Petitioner, a state prisoner appearing *pro se*, filed his “Petition,” seeking a writ of habeas corpus pursuant to 28 U.S.C. §2254. The matter was referred to United States Magistrate Judge Bana Roberts for initial proceedings. On June 30, 2005, Judge Roberts issued an Report and Recommendation which recommended Petitioner’s Petition be transferred to the Tenth Circuit Court of Appeals as it was a “second or successive” petition. (Report and Recommendation at 1 (citing 28 U.S.C. §2244(b)(3)(A) and 28 U.S.C. §1631).) On July 14, 2005, Petitioner filed an objection to the Report and Recommendation. The matter is at issue.

A review of Petitioner’s objection demonstrates that he acknowledges that his Petition is a “second or successive” petition. Liberally construing Petitioner’s objection, it appears that the purpose of the filing of the objection was to reiterate certain points in an attempt to assure that those points were not overlooked or missed by the judges of the appellate court. Petitioner does not deny that he’s previously filed a habeas action or attempt to contest Judge Roberts recommendation that the Petition be transferred to the Tenth Circuit Court of Appeals.

Accordingly, upon review of the Petition, the Report and Recommendation and Petitioner's objection thereto, the Court finds the Report and Recommendation should be adopted in its entirety and this case should be transferred to the circuit court.

IT IS SO ORDERED this 19th day of July, 2005.

A handwritten signature in blue ink, appearing to read "Ralph G. Thompson", is written over a horizontal line.

RALPH G. THOMPSON
UNITED STATES DISTRICT JUDGE